14

Office - Supreme Court, U. S.
FILED
JUN 5 1946
CHARLES ELMORE CROPLEY
CLERK

No. 1033

In the Supreme Court of the United States

October Term, 1945.

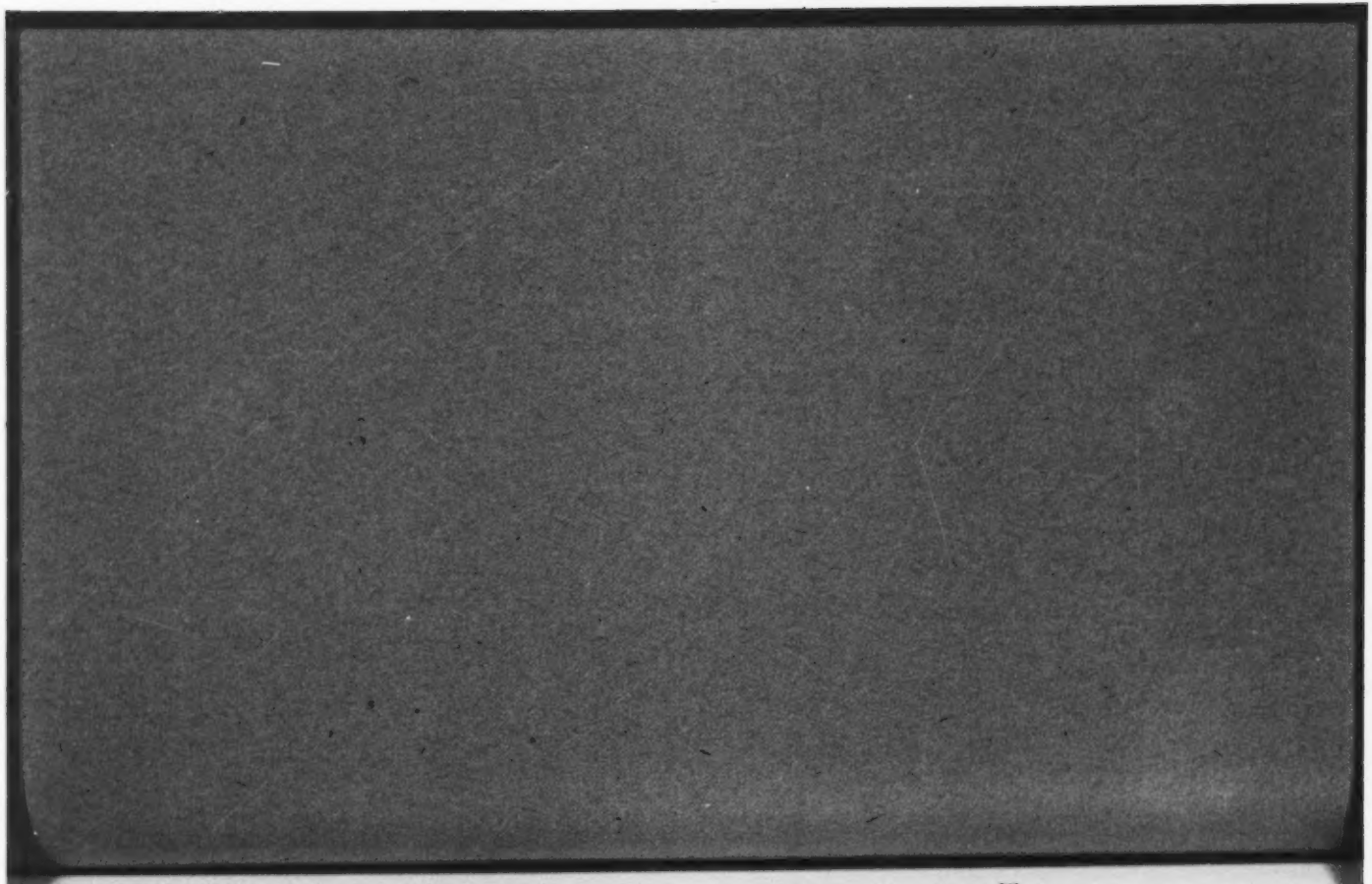
F. A. GILLESPIE, *Petitioner,*

vs.

COMMISSIONER OF INTERNAL REVENUE, *Respondent.*

PETITION for REHEARING.

HAROLD E. RORSCHACH,
1046 Kennedy Building,
Tulsa 3, Oklahoma,
JACK L. RORSCHACH,
Vinita, Oklahoma,
Attorneys for Appellant.



IN THE SUPREME COURT OF THE UNITED STATES.
October Term, 1945.

No. 1033

F. A. GILLESPIE, *Petitioner,*

vs.

COMMISSIONER OF INTERNAL REVENUE, *Respondent.*

PETITION *for* REHEARING.

To the Honorable Supreme Court of the United States and the Judges Thereof:

Comes now, F. A. Gillespie, petitioner in the above entitled case and presents this, his petition for rehearing, on his application for petition for writ of *certiorari* to the United States Circuit Court of Appeals for the Tenth Circuit, and in support thereof respectfully shows that:

The court erred in its conclusion that the petition for the writ of *certiorari* to the United States Circuit Court of Appeals for the Tenth Circuit should be denied in the following manner, to-wit:

Petition for writ of *certiorari* to the United States Circuit Court of Appeals for the Tenth Circuit was filed in the Supreme Court of the United States, October term 1945, on the 30th day of March, 1946, and thereafter on the 6th day of May, 1946, the Supreme Court of the United

States denied the petitioner's petition for said writ of *certiorari.*

The court erred in denying the said application of the petitioner for writ of *certiorari* for the following reasons:

I.

The decision of the court below is in conflict with *Henricksen* v. *Seward,* 135 F. (2d) 986, decided by the Circuit Court of Appeals for the Ninth Circuit, and *Montieth Bros. Co.* v. *United States,* 142 F. (2d) 193, decided by the Circuit Court of Appeals for the Seventh Circuit, and *Pelham Hall Co.* v. *Hassett,* 147 F. (2d) 63, decided by the Circuit of Court of Appeals for the First Circuit, and *Commissioner of Internal Revenue* v. *Arundel-Brooks Concrete Corp.,* 152 F. (2d) 225, decided by the Circuit Court of Appeals for the Fourth Circuit, and *Commissioner of Internal Revenue* v. *Security-First National Bank of Los Angeles, California,* 148 Fed. 937, decided by the Circuit Court of Appeals for the Ninth Circuit, and *Commissioner of Internal Revenue Revenue* v. *Netcher,* 143 F. (2d) 484, decided by the Circuit Court of Appeals for the Seventh Circuit.

II.

The court below in this case had decided an important question of Federal Income Tax Law which is in conflict with the several Circuit Courts of Appeal and more particularly the First, Fourth, Seventh and Ninth Circuits, and in view of the importance of the question of *res judicata* and its application to income tax cases decided by The Tax Court the question should be authoritatively settled by this Court.

Wherefore, petitioner respectfully prays that this Court grant a rehearing upon petitioner's petition for writ

of *certiorari* and upon a rehearing enter an order granting the petition for writ of *certiorari;* in support of which a brief is filed concurrently herewith.

For all of which your petitioner will ever pray, etc.

HAROLD E. RORSCHACH,
1046 Kennedy Building,
Tulsa 3, Oklahoma,

JACK L. RORSCHACH,
Vinita, Oklahoma,
Attorneys for Appellant.

Tulsa, Oklahoma,
May 31st, 1946.

CERTIFICATE OF COUNSEL.

The undersigned, record counsel for the appellant herein, does hereby certify and declare that the petition for rehearing filed in the proceeding in the instant cases is filed in good faith and not for any purpose of delay or injustice.

(SIGNED) HAROLD E. RORSCHACH

....,
HAROLD E. RORSCHACH,
Attorney for Appellant.